IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8486 of 2000
with
SPECIAL CIVIL APPLICATION No 8292 of 2000
with
SPECIAL CIVIL APPLICATION No 8356 of 2000
with
SPECIAL CIVIL APPLICATION No 8572 of 2000
with
SPECIAL CIVIL APPLICATION No 8562 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

GUJARAT STATE ROAD TRANSPORT CORPORATION
Versus
MANSUKHLAL KHIMJI

Appearance:
MS ROOPAL R PATEL for Petitioner
MR NIRAV C THAKKAR for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 22/09/2000

C.A.V. JUDGEMENT

1. Heard the learned counsel appearing for the parties. By way of these petitions, the petitioner Gujarat State Road Transport Corporation has challenged the common award of the Labour Court, Junagadh made on 21.3.2000 in Reference (LCJ) Nos.1459 of 1990 to 1463 of 1990. The respondent-workmen are, by the impugned award, ordered to be reinstated with 20% backwages.

2. The learned counsel for the petitioner submitted that the respondents were employed as casual labourers whenever their services were required and were paid on daily-wage basis. It is submitted that the respondents were neither employed as workmen of the petitioner, nor had they completed continuous service of one year within the meaning of Section 25-B of the Industrial Disputes Act, 1947. It is, therefore, submitted that the order of reinstatement with backwages was neither legal nor justified.

3. Perusing the impugned award, it appears that one of the workmen was examined on oath and another workman had filed an affidavit and both of them were cross-examined on behalf of the petitioner. Thereafter, the petitioner had not led any evidence and their evidence was closed. However, before that, several documents were produced by the parties and the same were exhibited in evidence. After appreciating the evidence on record, it was found that the respondents were serving as casual labourers as also that they were "workmen" within the meaning and definition of Section 2 (s) of the I.D.Act. It is also noted that despite an application of the respondents, the petitioner had not produced any documentary evidence showing the presence of the respondents. And in view of the oral testimony on behalf of the respondents, it is held that the respondents had completed 240 days of service. On these findings and in absence of even a plea to the effect that the provisions of Section 25-F were complied, the Labour Court has ordered reinstatement of the respondents, and in view of the fact that the respondents were only daily-rated employees and the case had lingered for eleven years, only 20% of backwages were ordered to be paid.

4. In view of the findings of fact recorded after appreciation of evidence and in absence of any material or evidence suggesting that the respondents had not completed 240 days of service in the year immediately

preceding the date of termination, there is no reason to hold that the impugned award is perverse. No other illegality or impropriety is pointed out on behalf of the petitioner. Under the circumstances and for the reasons discussed hereinabove, there is no substance in these petitions and hence the same are dismissed. Rule is discharged with no order as to costs.

Sd/-

(KMG Thilake)
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